THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO. 28426 of 1998

Dated 08-08-2005

Between:

M/s DAP Containers Private Limited, Hyderabad.

…Petitioner

And

The Labour Court-I, Hyderabad,

and two others.

… Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO. 28426 of 1998

O R D E R:

This writ petition is filed by M/s DAP Containers (P) Limited, Hyderabad, represented by its Deputy General Manager (Finance), aggrieved by the award dated 29-08-1998 passed in I.D.No.7 of 1997 on the file of the Labour Court-I, Hyderabad, the first respondent, wherein the petition filed by the second respondent under Section 2-A (2) of the Industrial Disputes Act, 1947, (hereinafter referred to as 'the Act') was answered in her favour and the petitioner-Management was directed to reinstate her into service with continuity of service, attendant benefits and full back wages.

It is the case of the petitioner that it is a small scale unit at Azamabad, Hyderabad, engaged in manufacture and sale of glass ampoules. During the course of business, it faced severe problems and thereby suffered huge losses and that in the year 1993, it also faced labour trouble, which resulted in suspension of its operations from 1993 onwards. Ultimately the petitioner-Management and the workers' Union arrived at a settlement under Section 12 (3) of the Act in the presence of the Conciliation Officer-cum-Assistant Commissioner of Labour-III on 28-07-1995. As a result of the settlement, the petitioner-Management paid lump sum amounts to all the employees and settled their accounts in full. However, the second respondent refused to receive the said amount as was being paid to all other

employees and filed I.D.No.7 of 1997 alleging that in the said settlement, her claim was not taken into consideration. The petitioner filed its counter and resisted the said claim. However, the Labour Court passed an award dated 16-07-1998 in I.D.No.7 of 1997 with the reliefs as noted above.

A detailed counter-affidavit has been filed on behalf of the second respondent denying the allegations made by the petitioner.

The learned counsel appearing for the second respondent strenuously contended that the termination of the services of the second respondent was in gross violation of the provisions of Section 25-F of the Act and the principles of natural justice. Therefore, the first respondent having rightly came to the conclusion that the termination of the second respondent was arbitrary and illegal, passed an award directing the petitioner to reinstate the second respondent into service with all attendant benefits and back wages, and the same is just and proper and does not call for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the submissions made by the learned counsel on either side and perused the award passed by the first respondent and other material made available on record.

The only ground urged by the learned counsel for the petitioner-Management is that since the second respondent had not put in 240 days of service preceding the date of her termination, the Labour Court was not proper in holding that the termination was in violation of Section 25-F of the Act. He placed reliance upon the decisions of the Apex Court in *RANGE FOREST OFFICER Vs. S. T. HADIMANI* and in *ESSEN DEINKI Vs. RAJIV KUMAR*. However, those judgments have no relevance to the facts of the present case. In fact the second respondent categorically asserted that she had worked in the

organization continuously for twenty years and that her services along with others were terminated without issuing any written orders. Though she had not asserted as to the service put in by her for 240 days in order to invoke the provisions of Section 25-F of the Act, in the counter-affidavit filed by the petitioner-Management before the first respondent, the petitioner had not denied the service rendered by the second respondent in the organization and had not stated that she had not put in continuous service for 240 days, except stating that it had not violated any of the provisions of the Act. Though the petitioner-Management in its counter-affidavit before the first respondent has asserted so many irrelevant provisions for the purpose of consideration of the Labour Court, it had not denied the continuous service rendered by the second respondent for twenty years and did not assert that the second respondent had not put in 240 days of service as on the date of termination of service. In that view of the matter, the first respondent, having rightly relied upon the decision of a Division Bench of this Court reported in *T. Yadamma Vs. Administrative Officer, K.R.S.A.,* wherein it was held that once the period of service is more than 240 days in one calendar year, the consequences are clear, and having observed that nothing has been shown before it to hold that Chapter V-A of the Act is not applicable to the organization, held that there was gross violation of the provisions of Section 25-F in Chapter-V-A of the Act. In the circumstances, I am of the opinion that the Labour Court has not committed any error warranting interference of this Court under Article 226 of the Constitution of India and the writ petition is liable to be dismissed.

The writ petition is accordingly dismissed. No costs.

(C.V. RAMULU, J)

Dated: 08-08-2005

ghn